

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

ICONTROL NETWORKS, INC.

Plaintiff,

V.

ALARM.COM INCORPORATED;
FRONTPOINT SECURITY SOLUTIONS, LLC

Defendants.

Civil Action No. 1:13-cv-834-LMB/IDD

JURY TRIAL DEMANDED

**PLAINTIFF ICONTROL NETWORKS, INC.'S OPPOSITION TO DEFENDANT
ALARM.COM INC.'S MOTION TO COMPEL**

INTRODUCTION

Plaintiff iControl Networks, Inc. (“iControl”) submits this memorandum in opposition to Defendant Alarm.com Inc.’s (“Alarm.com”) premature Motion to Compel a Complete Answer to Interrogatories Nos. 6 and 15 (“Motion”). Before Alarm.com filed its motion, iControl’s counsel assured Alarm.com that it would supplement Interrogatories Nos. 6 and 15, both of which involved substantial amounts of fact gathering and analysis. Counsel for iControl in fact met and conferred with opposing counsel, and in good faith requested that Alarm.com hold off on filing its motion so that iControl would have sufficient time to provide a supplemental response. Knowing a supplemental response was forthcoming and knowing no actual dispute existed, Alarm.com filed its Motion. As outlined below, iControl has now supplemented its responses, thereby addressing the issues raised by Alarm.com’s Motion. The Motion should be denied as moot.

ARGUMENT

I. iControl Has Properly Identified the Supporting Disclosure of Each Asserted Claim

Alarm.com’s Interrogatory No. 6 asks for multiple pieces of information. It states,

Separately for each Asserted Claim, state the basis for what you contend to be the invention date of the claim, including identifying where you contend each limitation of the claim was fully described, enabled, and supported pursuant to 35 U.S.C. § 112 in each patent application to or through which the claim claims priority.

(Defendant Alarm.com Incorporated’s First Set of Interrogatories to Plaintiff iControl Networks, Inc. dated Aug. 30, 2013 (attached as Exhibit 1 to Dkt. 61-1) (“Exhibit 1”) at PageID# 1112.)

On October 27, 2013, iControl supplemented its response to this interrogatory, providing detailed citations, by claim number, to the produced provisional application that enables each claim limitation. *See* Plaintiff iControl Networks, Inc.’s Supplemental Response to Defendant

Alarm.com Inc.'s First Set of Interrogatories (Nos. 5-6), dated October 27, 2013, attached as Exhibit A. As such, the request set forth in Alarm.com's Motion is satisfied.

II. iControl Has Identified Documents Concerning its Sales

Alarm.com's Interrogatory No. 15 has multiple sub-parts, stating:

Separately and for each iControl Accused Product identified in response to Interrogatory 12, identify on a quarter-by-quarter basis starting with the first date that product was made, used, sold, or offered for sale in the United States or imported into the United States: (a) the number of units sold in the United States; (b) gross revenues; (c) costs and expenses associated with each product, including maintenance, upgrades, support, or other secondary services associated with the product; (d) profits before taxes net of any returns, allowances, or credits.

(Exhibit 1 at PageID# 1114.)

On October 30, 2013, iControl supplemented its response to this interrogatory, identifying additional responsive documents pursuant to Federal Rule of Civil Procedure 33(d). *See* Plaintiff iControl Networks, Inc.'s Supplemental Response to Defendant Alarm.com Inc.'s First Set of Interrogatories (No. 15), dated October 30, 2013, attached as Exhibit B. As iControl's Chief Financial Officer, Mr. William Grotzinger testified repeatedly and as represented herein, iControl did not maintain financial documentation categorized by business or product unit until 2013. William Grotzinger – Vol. I 135:8-9, Oct. 25, 2013, attached as Exhibit C. As such, providing a textual response categorized by product is unreasonably burdensome, and iControl has every right to avail itself of the procedure outlined by Federal Rule of Civil Procedure 33(d).¹ Because iControl has provided a complete response that fully complies with the Federal Rules, the request set forth in Alarm.com's Motion is satisfied.

¹ "If the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing a party's business records (including electronically stored

CONCLUSION

For the foregoing reasons, iControl requests that the Court deny Alarm.com's motion to compel a complete answer to interrogatories nos. 6 and 15.

Dated: October 30, 2013

Respectfully submitted,

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information), and if the burden of deriving or ascertaining the answer will be substantially the same for either party, the responding party may answer by specifying the records that must be reviewed, in sufficient detail to enable the interrogating party to locate and identify them as readily as the responding party could." Fed. R. Civ. P. 33(d) (2007).

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CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2013, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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